REMARKS

Claims 27 to 38 are added, and therefore claims 14 to 21, 23 to 25, and 27 to 38 are now pending and being considered in the present application.

Applicants respectfully request reconsideration of the present application in view of this response.

With regard to section seven (7) of the Office Action, claims 14 to 16, 21, and 25 were provisionally rejected on the ground of non-statutory, obviousness-type double patenting as being unpatentable over claims 16, 24 to 26 of co-pending U.S. Patent Application No. 10/577,284. While the rejections may not be agreed with, to facilitate matters a terminal disclaimer is being submitted as requested. Therefore, withdrawal of the non-statutory, obviousness-type double patenting rejections is requested.

As to section eight (8) of the Office Action, claims 14 to 21 and 23 to 25 were rejected under 35 U.S.C. § 112, ¶ 2, as being incomplete for omitting essential elements.

While the rejections may not be agreed with, to facilitate matters, claims 14, 23, and 25 have been rewritten to better clarify the claimed subject matter as suggested by the Office Action. In particular, as to the specific omission of essential elements issues raised in the Office Action, it is believed that claims 14, 23, and 25 as presented obviate the asserted issues, so that claim 14, 23, and 25 are allowable, as are the dependent claims 15 to 20. No new matter has been added.

As to section nine (9), claims 14 to 21 and 23 to 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brayton et al., U.S. Patent No. 6,823,280, in view of Stewart et al. (David B. Stewart, *Design of Dynamically Reconfigurable Real-Time software Using Port-Based Objects*, 12/1997).

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Also, as clearly indicated by the Supreme Court in *KSR*, it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed. *See KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that "rejections on obviousness cannot be

sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Regarding claims 14, 21 and 25, the "Brayton" reference does not identically disclose (nor suggest) the claim feature of "plurality of simulation processes with *corresponding memory modules* and interface modules" The Office Action concedes that the "Brayton" reference does not disclose this claim feature. The Office Action relies on the "Stewart" reference to cure this critical defect. It conclusorily asserts that because the "Brayton" reference and the "Stewart" reference are "from the same field of endeavor and that the design analyze[d] by Stewart is similar to that of Brayton et al.", it would have been obvious to one of ordinary skilled in the art to combine the system of Stewart with the simulation method and system of Brayton et al. because Stewart assertedly discloses the advantage of performing maintenance on the fly and real-time system implementation using time-based decomposition.

The Office Action essentially asserts that because the "Stewart" reference assertedly discloses communication of inter-modules via distinct memory locations which Brayton is lacking, one of ordinary skill in the art would have sufficient skill and motivation to make the necessary modifications based on the disclosures of the applied art to arrive at the claimed invention. This assumption is completely unsupported. First, as to the Office Action's reliance on the "level of ordinary skill in the art" for the obviousness rejection, there isn't any proper evidence regarding what the ordinary skill level in the art is as to the present issues. Second, simply asserting that "the motivation to combine . . . [is] within the level of one ordinary skilled in the art" because the "Stewart" reference assertedly discloses features which the "Brayton" reference lacks doesn't provide any meaningful reasoning as to why one of ordinary skill in the art would have been motivated to make the asserted modification; instead, the Office Action is simply stating, without any supporting evidence, that it would have been obvious to try the asserted combination.

The "obvious to try" rationale is clearly insufficient to support an obviousness rejection, particularly when the Office Action has not established any finding as to: a) whether the problem addressed by the present invention was recognized in the art; b) whether there was any recognized potential solution to the problem in the art; or c) whether one of ordinary skill in the art could have pursued the recognized potential solution with a reasonable expectation of success.

7

Furthermore, it is respectfully submitted that the "Stewart" reference does not cure the defects of the "Brayton" reference. The "Stewart" reference indicates that "the work focuses on loosely coupled *shared memory* architectures." (The "Stewart" reference, page 767, section 4, (emphasis added)). Further that "[e]very I/O port and configuration constant is defined as a state variable ... in the global table, which is stored in shared memory." (*Id.*, section 4.1) Thus, the "Stewart" reference deals with *shared memory* and not "*distinct memory locations* for inter-module communication" as provided in the context of the claimed subject matter. Accordingly, the "Brayton" reference, whether taken alone or in combination, does not disclose nor suggest all the features of claims 14, 21, and 25.

Accordingly, claims 14, 21, and 25 are allowable, as are their respective dependent claims.

New claims 27 to 38 do not add any new matter and are supported by the present application. Claims 27 to 32 depend from claim 25 and are therefore allowable for the same reasons. Claims 33 and 34 depend from claim 14 and are therefore allowable for the same reasons. Claims 35 to 38 depend from claim 21 and are therefore allowable for the same reasons.

Accordingly, claims 14 to 21, 23 to 25, and 27 to 38 are allowable, as are their respective dependent claims.

CONCLUSION

It is therefore respectfully submitted that claims 14 to 21, 23 to 25, and 27 to 38 are allowable. It is therefore respectfully requested that the objections and rejections be withdrawn, since all issues raised have been addressed and obviated. An early and favorable action on the merits is therefore respectfully requested.

Respectfully submitted,

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